

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 24M-0091TO

IN THE MATTER OF THE PETITION OF RYDER TOWING & RECOVERY TO REVERSE
AN INITIAL TOWING PERMIT DENIAL PURSUANT TO 40-10.1-401(2)(b), C.R.S. AND
RULE 6504(d)

**INTERIM DECISION OF
ADMINISTRATIVE LAW JUDGE
MELODY MIRBABA
REQUIRING PETITIONER TO MAKE FILINGS;
REQUIRING PARTIES TO CONFER ON A PROCEDURAL
SCHEDULE; AND REQUIRING STAFF TO FILE A
PROPOSED PROCEDURAL SCHEDULE**

Mailed Date: April 10, 2024

I. STATEMENT, SUMMARY AND PROCEDURAL HISTORY

A. Statement and Summary

1. This Decision requires Ms. Renata Anson (Petitioner) to make a filing addressing the items discussed herein; requires the parties to confer on a procedural schedule; and requires Colorado Public Utilities Commission Staff (Staff) to file a proposed consensus procedural schedule. If Ms. Anson does not make the required filings by the established deadlines without good cause therefore, the Petition may be dismissed without prejudice.

B. Procedural History

2. On February 26, 2024, Ms. Renata Anson initiated this Proceeding by filing a Petition seeking to reverse a Staff decision initially denying a towing permit application.

3. On March 13, 2024, the Colorado Public Utilities Commission (Commission) referred this Proceeding by minute entry to an Administrative Law Judge (ALJ) for disposition.

4. On April 1, 2024, Staff filed a “Notice of Intervention as of Right [. . .] Entry of Appearance, Notice Pursuant to Rule 1007(a) and Rule 1401, and Request for Hearing” (Staff’s Intervention).

II. FINDINGS, ANALYSIS AND CONCLUSIONS

A. Nature of Petition and Legal Representation

5. Ms. Anson filed the Petition as a “Partner equity owner” of an unnamed entity.¹ For purposes of this Decision, Ms. Anson is treated as the Petitioner.²

6. The Petition appeals Staff’s denial of towing permit Application No. 1020821 and 23AP-T-46125 via a Staff letter dated January 12, 2024.³ The Petition does not include a copy of the Staff letter that is the subject of the Petition or the permit Application that is the subject of the Petition. Nor does the Petition identify the entity or individual whose permit Application was denied, or the specific reasons that Staff provided for the permit Application denial.⁴ Rather, in the Petition, Ms. Anson asserts that she is a partner equity owner of an unidentified company, and makes numerous allegations implying or directly asserting that Staff’s denial of the permit Application violates her rights as a woman independent of her spouse.⁵ Since the Petition does not identify whose permit Application was denied, the basis for that denial, and on whose behalf the

¹ Petition at 3.

² The caption generated for this matter identifies Ryder Towing & Recovery as the entity who filed the Petition, but the Petition itself does not reference Ryder Towing & Recovery. Rather, the Petition indicates it was submitted and signed by “Renata Anson, Partner equity owner.” *Id.* Staff’s Intervention asserts that the Petition concerns its denial of a towing permit Application for Ryder Towing & Recovery. Thus, other than Staff’s Intervention, which includes a single reference to Ryder Towing & Recovery, the record reflects almost no information on that company.

³ *Id.* at 1.

⁴ *See id.* at 1-3. The Petition includes general references to Ms. Anson’s spouse’s “history” and to a “Shaun Healy” (though this person’s relevance is not explained or identified). *Id.*

⁵ *Id.*

Petition is filed, the Petition fails to provide enough information to enable this matter to move forward to an adjudication.

7. For the reasons discussed, Ms. Anson will be required to make a filing clarifying the nature of the Petition.⁶ Specifically, on or by 5:00 p.m. on April 24, 2024, Ms. Anson will be required to make a filing with the Commission that:

- identifies the individual or entity whose towing permit Application was denied and which is the subject of the Petition, and the full legal name of any company or entity on whose behalf the Petition is filed (as applicable);
- explains the basis for the permit Application denial (which is foundational to the basis for the appeal);
- explains the basis of the Petition's appeal of the permit Application denial; and
- if Ms. Anson is not the individual whose permit Application was denied, the basis for Ms. Anson's legal authority to appeal the permit Application denial.

8. ***Ms. Anson is on notice that if she fails to make a filing complying with the above requirements by the established deadline without showing good cause for that failure, the Petition may be dismissed without prejudice.***

9. Ms. Anson is encouraged, but not required, to file a copy of the permit Application that is the subject of the Petition and the Staff letter denying that permit Application.

10. In addition, as explained below, if the Petition is filed on behalf of a formally organized company, Ms. Anson will be required to either have counsel enter an appearance on the company's behalf or submit a filing establishing that the company is eligible to be represented by

⁶ In order to ensure that parties appearing in matters before the Commission receive due process through an impartial decision-maker, the Commission separates its adjudicatory functions from many of its other functions, including processing and deciding permit applications. The ALJ, as the adjudicator and initial-decision maker, generally only sees what the parties present in a Proceeding. Thus, if Ms. Anson assumes that the ALJ should be able to determine the nature of the Petition by searching Commission records for the permit Application and related denial letter, this assumption is incorrect and would require the ALJ to violate the careful separation of functions that the Commission has established. It is, therefore, incumbent on the parties to a proceeding to clearly identify the matters that are at issue.

a non-attorney, and must identify the non-attorney with authority to do so. This is required because parties appearing before the Commission must be represented by an attorney authorized to practice law in Colorado, except that an individual may represent their own interests (without an attorney), and an individual may represent the interests of a formally organized company without an attorney after establishing the company is eligible to be represented by a non-attorney, consistent with the below requirement.⁷

11. Formally organized companies as referenced herein are companies that have been formally organized under the laws of the State of Colorado as a formal legal entity, such as a corporation, limited liability corporation, association, or partnership.⁸ Unincorporated businesses such as sole proprietorships are not subject to these requirements. A sole proprietorship is a form of business that essentially operates as an extension of the individual who owns or operates the business,⁹ and is not formally organized under the laws of the State of Colorado as a formal legal entity such as a corporation, limited liability corporation, association, or partnership.

12. For a formally organized company to be represented by a non-attorney in a Commission proceeding, all the below conditions must be met:

- The company must not have more than three owners;
- The amount in controversy must not exceed \$15,000; and
- The non-attorney individual seeking to represent the company must provide the Commission with satisfactory evidence demonstrating his or her authority to represent the company in the proceeding.¹⁰

⁷ § 13-1-127, C.R.S.; Rule 1201(a) and (b)(I) and (II) of the Commission's Rules of Practice and Procedure, 4 *Code of Colorado Regulations* (CCR) 723-1; *People v. Adams*, 243 P.3d 256, 266-267 (Colo. 2010). Individuals not licensed to practice law may not represent the rights of another, as this amounts to the unauthorized practice of law. See *People v. Adams*, 243 P.3d 256, 266-267 (Colo. 2010).

⁸ See Rule 1201(b), 4 CCR 723-1.

⁹ See *Allstate Ins. Co. v. Willison*, 885 P.2d 342, 344 (Colo. App. 1994)

¹⁰ § 13-1-127(2) and (2.3)(c), C.R.S.; Rule 1201(b)(II), 4 CCR 723-1.

13. As to the last factor, it is presumed that a corporation's officers, a partnership's partners, a limited partnership's members, and persons authorized to manage a limited liability company have authority to represent the company in the proceeding.¹¹ A written resolution from a company specifically authorizing the individual to represent the company's interests in the proceeding may also be relied upon as evidence of the individual's authority to represent the company.¹²

14. Ms. Anson is not represented by an attorney in this Proceeding, but it is unclear whether the Petition is an appeal of a decision denying Ms. Anson, as an individual, a towing permit; whether it is an appeal of a decision denying a permit to a formally organized company in which Ms. Anson has a legal interest (*e.g.*, as an owner or partner); or whether it is an appeal of a decision denying a permit to a business that is not formally organized under the laws of the State of Colorado (such as a sole proprietorship).¹³ If the Petition seeks to appeal Staff's denial of a permit Application filed by a formally organized company, on or by 5:00 p.m. on April 24, 2024, Ms. Anson must either have counsel enter an appearance on behalf of the formally organized company, or make a filing establishing that the company meets the above requirements to be represented by a non-attorney in this Proceeding. Such a filing must also identify the individual who will represent the company and establish that the identified person is authorized to represent the company.

15. ***Ms. Anson is on notice that if the Petition seeks to appeal Staff's denial of a permit Application filed by a formally organized company and she fails to have counsel enter an appearance on the company's behalf or make a filing establishing that the company is***

¹¹ § 13-1-127(2) and (2.3)(c), C.R.S.

¹² § 13-1-127(3). C.R.S.

¹³ See generally, Petition at 1-3.

eligible to be represented by an identified non-attorney by the established deadline, without showing good cause for this failure, the Petition may be dismissed without prejudice.

B. Evidentiary Hearing and Procedural Schedule

16. If Ms. Anson makes the required filings, thereby enabling this matter to move forward to an adjudication, a procedural schedule must be established so that the issues can be litigated. But, if she fails to make the required filings by the established deadline without establishing good cause, the Proceeding cannot move forward, and as noted, the Petition may be dismissed without prejudice. In such a circumstance, a procedural schedule would be unnecessary. As such, the below requirements apply only if Ms. Anson makes the required filings.

17. Specifically, assuming that Ms. Anson makes the required filings, the parties are required to confer on a procedural schedule, and Staff is required to file a proposed consensus procedural schedule. As a part of this conferral, the parties must confer on deadlines to file and serve exhibits, witness and exhibit lists, and statements of position; dates for an evidentiary hearing on the Petition; and whether the hearing should be held as a fully remote hearing, an in-person hearing, or a hybrid hearing. A fully remote hearing is one in which all participants appear for the hearing from remote locations via videoconference using the web platform, Zoom. A fully in-person hearing is one in which all participants appear in person at a Commission hearing room in downtown Denver. And a hybrid hearing is one in which participants may appear in person at a Commission hearing room in Denver or remotely, but at least one party must appear in person. If the parties agree that the hearing should be a hybrid hearing, Staff's filing must also include a proposed deadline that is at least 10 calendar days before the proposed hearing dates to make a filing if the parties decide (after the schedule is established) that none of them will appear in person. In such a circumstance, the hearing will be converted to a fully remote hearing.

18. If the hearing is a fully remote or hybrid, all parties must be prepared to present their documentary evidence electronically. Procedures to facilitate that will be established by separate decision.

19. When identifying potential hearing dates, the parties are encouraged to review the Commission's calendar of events at: <https://puc.colorado.gov/puccalendar>. Once the parties have identified potential hearing dates, they must confirm those dates are available before submitting the proposed procedural schedule by contacting either Ms. Casey Federico at casey.federico@state.co.us or Ms. Stephanie Kunkel at stephanie.kunkel@state.co.us.

20. If a proposed consensus schedule is not filed by the established deadline and Ms. Anson makes the required filings, the ALJ will schedule a fully remote hearing and establish procedures and deadlines for that hearing without the parties' input.

C. Additional Advisements

21. All parties must be familiar with and follow the Commission's Rules of Practice and Procedure, 4 CCR 723-1, and the Commission's Rules Regulating Transportation by Motor Vehicle, 4 CCR 723-6. The parties may obtain a copy of these rules from the Commission in hard copy or on the Commission's website at: <https://www.colorado.gov/pacific/dora/pucrules>.

22. The parties are on notice that they are required to serve a copy of any filing they make in this Proceeding on each other when they make the filing.

III. ORDER

A. It Is Ordered That:

1. On or by 5:00 p.m. on April 24, 2024, Ms. Renata Anson must make a filing in this Proceeding that:

- identifies the individual or entity whose towing permit Application was denied and which is the subject of the Petition, and the full legal name of any company or entity on whose behalf the Petition was filed (as applicable);
- explains the basis for the permit Application denial;
- explains the basis of the Petition's appeal of the permit Application denial; and
- if Ms. Anson is not the individual whose permit Application was denied, the basis for Ms. Anson's legal authority to appeal the permit Application denial.

2. Ms. Anson is encouraged, but not required, to file a copy of the permit Application that is the subject of the Petition and the letter denying that permit Application on or by 5:00 p.m. on April 24, 2024.

3. If the Petition is filed on behalf of a formally organized company, on or by 5:00 p.m. on April 24, 2024, Ms. Anson is also required to either have counsel enter an appearance on the company's behalf or make a filing establishing that the company can be represented by a non-attorney consistent with the requirements outlined in ¶ 12 above. The filing must identify the non-attorney who will represent the company and establish that the identified person is authorized to represent the company, consistent with the above discussion.

4. The parties must confer with each other on a procedural schedule. That conferral must address the items discussed in ¶ 17 above. On or by 5:00 p.m. on May 3, 2024, Colorado Public Utilities Commission Staff (Staff) must file a proposed procedural schedule that addresses the items discussed in ¶ 17 above. If Ms. Anson fails to make the filing required in ordering ¶¶ 1 and 3 (above), the parties are not required to confer on a procedural schedule and Staff is not required to submit a proposed procedural schedule.

5. This Decision is effective immediately.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MELODY MIRBABA

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads "Rebecca E. White".

Rebecca E. White,
Director